THE HIGH COURT OF UTTARANCHAL AT NAINITAL.
A.O. No. 1407 of 2001
Old F.A.F.O.No. 671 of 1996

National Insurance Company Ltd.
Through its Administrative Officer,
Divisional Office,
25, M.G.Marg, Allahabad.

… **Appellant-O.P.**

Versus

1. Chattar Singh S/O Shri Inder Singh
   Resident of Barethi, Patti Barsali
   Tahsil Dunda, District Uttarkashi. (Claimant)
2. Rajendra Singh, S/O Shri Gyan Singh
   Resident of Jadapani, Patti Bumund,
   Tahsil Tehri, District Tehri Garhwal.
3. Bachan Singh son of Shri More Singh
   Resident of Muhangaon, Patti Bumund,
   Tahsil Tehri, District Tehri Garhwal.

… **Respondents**

Sri Prabhat Pandey, Adv. learned counsel for the appellant.
None for the respondents.

Date May 03, 2006.

P.C : Hon. B.S. Verma, J.

Heard learned counsel for the appellant on the application for condonation of delay. Grounds shown are sufficient to condone the delay. Delay in filing the appeal is condoned. The appeal is admitted.

This appeal under Section 173 of the Motor Vehicles Act, 1988 (***for short the Act)*** is directed against the judgment and award dated 9-9-1996, passed by the Motor Accident Claims Tribunal Uttar Kashi(***in short the Tribunal)*** in Motor accident Claim Petition No. 25 of 1995, Chattar Singh Vs. Rajendra Singh and another, whereby compensation of Rs. 10,000/- has been awarded in favour of the claimant along with interest pendente lite and future @ 12% per annum payable by the O.P.No.3- Insurance Company as mentioned in the impugned order.

Relevant facts giving rise to the present appeal are that the claimant Chattar Singh filed claim petition for compensation of Rs. 96,000/- under Section 166 of the Act in respect of injuries suffered by him in a motor vehicle accident which occurred on 20-9-1995 at 8.30 a.m. on Uttarkashi-Gangotri motor road near Dabrani involving bus No. UAW-9996, which was being driven rashly and negligently by its driver. The bus was owned by Rajendra Singh and it was duly insured wit the National Insurance Company. In this accident the bus fell down into the river Bhagirathi resulting into injuries to several persons including the claimant and many others died at the spot. The opposite parties contested the claim petition and filed their written statements. The Insurance Company-appellant contended that the owner of the vehicle flouted the terms and condition of the policy. The accident was the result of bad condition of the road and due to mechanical fault of the vehicle. Quantum of compensation was also challenged.

The learned Tribunal framed necessary issues in the case and after recording the evidence of the parties ultimately decided the claim petition thereby the claimant has been awarded sum of Rs. 10,000/- as compensation along with interest @ 12% per annum.

In this appeal, the impugned award has been assailed on the ground that there was violation of policy condition on the part of the owner of the bus, hence the Insurance Company was not liable to pay compensation. It has been contended that the bus was overloaded.

It may be mentioned that a bunch of as many as 25 appeals had already been decided by a Division Bench judgment of this Court dated 21-8-2004 and all the appeals as well as present

appeal have arisen out of the same motor accident. In all these appeals the Insurance Company alone has come up in appeal.

In the course of arguments, the learned counsel for the appellant has fairly conceded that the controversy involved in the present appeal stands already resolved by the Division Bench judgment of this Court dated 21-8-2004 passed in A.O. No. 1362 of 2001, National Insurance Company Ltd. Vs. Raghubir Singh and two others, whereby 25 appeals arising out of the same accident were disposed of by common judgment and the appeal were dismissed on merit. It has been conceded by the learned counsel for the appellant that the present appeal is squarely covered by the aforesaid judgment, as the facts are identical.

I have perused the Division Bench judgment dated 21-8-2004 and find that the present appeal is fully covered by the said order. The contention raised in the present appeal have already been dealt with in that order and the appeals were dismissed on merit. Accordingly, the present appeal is liable to be dismissed in terms of the order passed in A.O. No. 1362 of 2001, as conceded by the learned counsel for the appellant.

Accordingly, the present appeal is dismissed in terms of Division Bench judgment dated 21-8-2004 passed in A.O. No. 1362 of 2001, National Insurance Company Vs. Raghubir Singh and others. No order as to costs.

The amount in deposit with this Court, if any, be transmitted to the Motor Accident Claims Tribunal concerned for being paid to the claimant.

(B.S.Verma, J.)

RCP